



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,709	12/21/2005	Achim Kraus	022862-1081-US00	8170
23409 7590 04/25/2011 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
04/25/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,709

Applicant(s)

KRAUS ET AL.

Examiner

Gary K. Graham

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,10,12,13 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 December 2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 1, reference to claim 4 for dependency is improper and indefinite since claim 4 has been cancelled. It appears the claim should be amended to depend from claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hopkins (GB publication 2347340).

The patent to Hopkins discloses the invention as is claimed. Hopkins discloses a wiper device (figs.1,1A) comprising a support (6), on which a tubular bearing (3) is arranged. The bearing supports a wiper shaft (2). A retaining clip (7) with resilient legs (9) detachably connects the bearing to the support by gripping around a portion (4) of the bearing. The clip enables the bearing (3) with shaft (2) therein to separate from the support in the event of an increase in force on the shaft due to impact with a pedestrian.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 5, 6, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muchpforte (US patent 5,878,631) in view of Hopkins (GB publication 2347340).

The patent to Muchpforte discloses the invention substantially as is claimed. Muchpforte discloses a wiper device (fig. 15) comprising a support (1) on which a tubular bearing (3) is arranged within a receptacle or hole thereof. The bearing supports a wiper shaft (4) which protrudes upwardly from both the bearing and the support. A retaining element (15), in speed nut or clip form, detachably connects the bearing to the support.

The patent to Muchpforte discloses all of the above recited subject matter with the exception of the clip allowing separation of the bearing from the support in the event of pedestrian impact force on the shaft.

The publication to Hopkins discloses all of the above recited subject matter, including (figs.8,8A) employing a releasable retention clip (810) to hold a wiper shaft (802) in a bearing (803). Upon application of sufficient force to the shaft, due to a pedestrian impact, the clip releases allowing the shaft to move downwardly thus reducing pedestrian injury. It is noted, as set forth previously, that Hopkins contemplates in the figure 1 embodiment movement of both the wiper shaft and bearing upon a pedestrian impact force being applied to the shaft.

It would have been obvious to one of skill in the art to provide the retaining clip as set forth in the figures 15, 16 embodiment of Muchlporte as an impact force releasable clip, as clearly suggested by Hopkins, to enable movement of the protruding shaft and thus bearing in the event of pedestrian impact therewith. Such would allow for, in the event a pedestrian were to contact or apply force to the protruding wiper shaft of Muchlporte, release of such shaft and consequentially the bearing and aid in injury prevention. Note that Hopkins clearly suggests making retention clips as releasable to enable relative component movement to avoid or reduce pedestrian injury. Such could readily be employed in Muchlporte for like reasons to reduce any potential injury to pedestrians that could be caused by the protruding wiper shaft.

With respect to claims 6 and 13, note plate (14) that is fastened to a flat area of collar (22) on the support (1).

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. As set forth above, Hopkins appears to meet some of the claims with his figure 1 embodiment and suggests via his figure 8 embodiment employing a releasable clip that releases upon a pedestrian impact force to allow relative component movement. Such teaching could readily be employed in Muchlporte to enable the protruding wiper shaft and consequentially the bearing to release and aid in pedestrian injury.

With respect to applicant's statement that clips are not annular, such is queried. It is not clear what is the basis for such. There does not appear to be an such limitation inherent to the structure of clips. A clip is merely any of numerous devices for gripping or holding things together.

The Declaration submitted under 37 CFR 1.132 has been fully considered, however, such is considered moot in view of the new grounds of rejection. As set forth above, Hopkins teaches release of both shafts and shafts within bearings upon pedestrian impact force. Such teachings, in particular through the use of a releasable clip could readily be employed in Muehlporte for the same reason with respect to the protruding shaft.

Allowable Subject Matter

Claim 17 is allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
22 April 2011